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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

10010658-1

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on 3/13/06

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Application Number

10/040,056

Filed

06/18/2002

First Named Inventor

Amnon Silverstein

Art Unit

2676

Examiner

Rahmjoo, M.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

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applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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Registration number _____

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Registration number if acting under 37 CFR 1.34 _____

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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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REMARKS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Final Office Action dated December 13, 2005, Applicant respectfully requests a review of the final rejection in the above-identified application. Applicant respectfully submits that the Examiner's rejections of the Claims are improper as the specification does comply with the written description requirement and an essential element needed for a proper *prima facie* rejection is missing (e.g., the teaching of all of the recited claim limitations). Claims 16-23 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 16-23 are also rejected under 35 U.S.C. §103(a) as being unpatentable over Szelliski et al. (hereinafter "Szelliski") in view of Tice (hereinafter "Tice").

THE SPECIFICATION DOES COMPLY WITH THE WRITTEN DESCRIPTION REQUIREMENT

Claims 16-23 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the phrase "spatial region" is rejected as this phrase does not appear in the disclosure. Applicant respectfully asserts that disclosure does support the claimed phrase "spatial region" and is in compliance with the written description requirement.

The purpose of the written description requirement is to establish that the inventor had possession of the claimed invention (see MPEP 2163). "To comply with the written description requirement of 35 U.S.C. 112, para. 1, ... each claim limitation must be expressly, implicitly or inherently supported by the initial filed disclosure" (emphasis added; MPEP 2163 (II)(A)(3)(b)). In particular, Applicant respectfully asserts that "the observation of a lack of literal support does not, in and of itself, establish a *prima facie* case for lack of adequate descriptive support under the first paragraph of 35 U.S.C. 112" (*Ex parte Parks*, 30 USPQ2d 1234, 1236 (B.P.A.I. 1994)).

Applicant respectfully asserts that the instant disclosure, at a minimum, implicitly supports the claimed phrase “spatial region”. For instance, with reference to Figures 3A and 3B of the instant disclosure, portions of sampled image 222 comprising regions 303 (e.g., regions 303a, 303b and 303c) are shown. Pixel 311 comprising sub-pixels 313 (e.g., sub-pixels 313a, 313b and 313c) is also shown. It is implicit to the disclosure that regions 303 and pixel 311 are spatial regions. Furthermore, with reference to Figure 4 of the instant disclosure, at step 410, the sub-pixels 313 are mapped to a region 220 (page 12, line 20 through page 13, line 2). Once again, Applicant respectfully asserts that it is implicit to the disclosure that this mapping is between spatial regions. Moreover, the phrase “spatial resolution” within the disclosure establishes that the mapping is between spatial regions. Accordingly, Applicant respectfully asserts that Claims 16-23 comply with the written description requirement under 35 U.S.C. §112, first paragraph.

KEY CLAIM LIMITATIONS THAT ARE NOT MET BY THE CITED REFERENCES

Szelliski and Tice, either alone or in combination, do not teach or suggest the method of processing an image for display on a display having sub-pixel display capability in the manner set forth in Claim 16. More specifically, Szelliski does not teach or suggest the expressly recited limitations of a method of processing an image for display on a display having sub-pixel display capability as recited in Claim 16. Moreover, Tice does not teach or suggest a modification of Szelliski that would remedy these deficiencies.

Claim Limitations Having To Do With The Sub-Pixels Are Not Met By The Cited

References

Claim 16 sets forth a method of processing an image for display on a display having sub-pixel display capability comprising: “for each sub-pixel, calculating an intensity value for said sub-pixel using only intensity information for a first color from said corresponding

spatial region,” (emphasis added). In the Final Office Action, the Examiner has referenced column 19, lines 13-15, of Szelliski as containing subject matter that teaches localizing results to sub-pixel precision corresponding to sub-pixels of an image. The Examiner combines the teaching of localizing the results of the local search of a local error surface (col. 18, line 62, through col. 19, line 16) with the teaching of placing a composited pixel value (color or intensity) into a corresponding pixel location in a triangle in the texture map (col. 29, lines 54-67). However, Applicant respectfully asserts that such a combination is not described, taught or suggested by Szelliski. In contrast, Szelliski teaches that “the composite pixel values are placed into corresponding pixel locations in the texture map using a color stenciling feature in a unique color identification tag is assigned to each triangle in the texture map and to each pixel [sic] in the triangle” (col. 4, lines 48-52; see also col. 28, line 63, through col. 29, line 3).

Applicant respectfully asserts that Szelliski does not teach, describe or suggest “calculating an intensity value for said sub-pixel” as claimed. In particular, Szelliski specifically teaches that a composited pixel intensity value is placed into a triangle. Moreover, the only teaching within Szelliski related to a sub-pixel is in reference to a local search of a local error surface. Applicant respectfully asserts that there is no motivation or suggestion to combine these teachings. Moreover, by teaching that a composited pixel intensity value is placed into a triangle, Applicant respectfully asserts that Szelliski teaches away from “for each sub-pixel, calculating an intensity value for said sub-pixel using only intensity information for a first color from said corresponding spatial region,” as claimed. Accordingly, the aforementioned limitations are not taught or suggested by Szelliski and thus an essential element needed for a prima facie rejection based on the cited references is not present.

Moreover, Tice does not teach or suggest a modification of Szelliski that would remedy this deficiency of the Szelliski reference. In fact, Tice is not employed by the Examiner to address this deficiency (see discussion below). Accordingly, the aforementioned limitations are not taught or suggested by Szelliski and Tice and thus an essential element needed for a prima facie rejection based on the cited references is not present.

Claim Limitations Having To Do With Rendering the Image on the Display Are Not Met
By The Cited References

Claim 16 sets forth a method of processing an image for display on a display having sub-pixel display capability comprising: “rendering said image on said display, based on said calculated intensities,” (emphasis added). In the Final Office Action, the Examiner has referenced column 27, line 62, through col. 28, line 8, and col. 32, lines 5-9, of Szelliski as containing subject matter that teaches rendering said image on said display, based on said calculated intensities. Applicant respectfully asserts that Szelliski does not support such a teaching.

Szelliski recites that “[t]he color associated with each pixel is computed” (emphasis added; col. 28, lines 1-2). In particular, Szelliski is silent to rendering an image based on intensity. In contrast, by teaching that the color associated with a pixel is computed for converting a set of input images and associated transforms into images that can be quickly rendered or viewed, Szelliski teaches away from the use of “rendering said image on said display, based on said calculated intensities,” as claimed (emphasis added).

Moreover, Tice does not teach or suggest a modification of Szelliski that would remedy this deficiency of the Szelliski reference. In fact, Tice is not employed by the Examiner to address this deficiency (see discussion below). Accordingly, the

aforementioned limitations are not taught or suggested by Szelliski and Tice and thus an essential element needed for a prima facie rejection based on the cited references is not present.

In summary, Applicant respectfully submits that the Examiner's rejections of the Claims are improper as Claims 16-23 are in compliance with the written description requirement under 35 U.S.C. §112, first paragraph, and as key limitations needed for proper prima facie rejections of Applicant's Claims are not met by the cited references as outlined above. Moreover, because key limitations of independent Claim 16 (from which Claims 17-23 depend) are not met by Szelliski in view of Tice, Applicant respectfully submits that the rejection of Claims 16-23 under 35 U.S.C. §103(a) as being unpatentable over Szelliski in view of Tice is improper and should be reversed.